

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

JOSE L. PADILLA,

Plaintiff,

vs.

No. CIV 09-971 JB/RLP

CITY OF ALBUQUERQUE, et al.

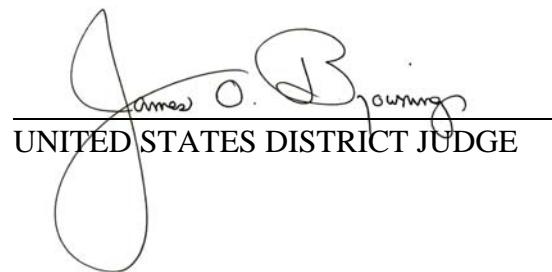
Defendants.

**ORDER DISMISSING COUNT TWO "SECTION 1983"  
OF COMPLAINT WITHOUT PREJUDICE**

THIS MATTER having come before the Court on the Motion for Voluntary Dismissal of Section 1983 Claim by Plaintiff (Doc. #12), the Court having examined the briefs and considered the arguments of counsel and being otherwise fully advised in the premises, FINDS that the Motion should be granted for the reasons stated therein.

IT IS THEREFORE ORDERED that Count Two "Section 1983" be, and hereby is, dismissed without prejudice.

IT IS SO ORDERED.



\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

If the Plaintiff does not desire to litigate the § 1983 claim at this time, there is no sound reason to require him to do so. There is also no sound reason to require him to dismiss his claim with prejudice to dismiss it. Accordingly, the Court will dismiss Count Two without prejudice.

The Court has supplemental jurisdiction over Plaintiff Jose L. Padilla's remaining state-law claims pursuant to 28 U.S.C. § 1337. The decision to exercise supplemental jurisdiction is within the Court's discretion. See Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343, 351 (1988); Archuleta v. Lacuesta, 131 F.3d 1359, 1368 n.4 (10th Cir. 1997). There are no remaining federal claims. The remaining state claims will require interpretation and application of state law that are better left to the state court. The Court will, therefore, remand the remaining state-law claims for the state court to decide them.